

BILL NO. G-97-03-17 (AS AMENDED) *(as amended)*

GENERAL ORDINANCE NO. 05-97

AN ORDINANCE REPEALING SECTION 153.02 OF  
THE CITY OF FORT WAYNE, INDIANA, CODE OF  
ORDINANCES AND ESTABLISHING NEW A NEW  
SUBSECTION - -§ 153.13-153.24 - ENTITLED  
"DESIGNATION OF ECONOMIC REVITALIZATION  
AREAS AND THE GRANTING OF TAX  
ABATEMENTS."

**WHEREAS**, the Fort Wayne Common Council recognizes the need to continue to induce employment opportunities and to maintain a sound economy within its jurisdiction, especially in those areas most needing additional stimulation of investment; and

**WHEREAS**, tax abatement is an inducement, allowing prospective and existing Fort Wayne companies investing in real property improvements or new manufacturing machinery within the City, to phase-in the payment of those additional taxes resulting from their investment; and

**WHEREAS**, the designation of certain parcels of land as Economic Revitalization Areas is a step taken preliminary to a private entity's filing for tax abatement; and

**WHEREAS**, the Fort Wayne Common Council further recognizes that it would be beneficial to designate certain areas within the City of Fort Wayne as Economic Revitalization Areas for tax abatement purposes; and

**WHEREAS**, the Fort Wayne Common Council is such a designating body per the Indiana Code; and

**WHEREAS**, according to Indiana Code 6-1.1-12.1(1), as amended "Economic revitalization area" means an area which is within the corporate limits of a city, town, or county which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property. The term "economic revitalization area" also includes:

(A) any area where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues; and

(B) a residentially distressed area, except as otherwise provided in this chapter." ; and,

1           **WHEREAS**, The Fort Wayne Common Council may, according to IC 6-1.1-12.1-2,  
2           include certain conditions in the resolution designating an area as an Economic  
3           Revitalization Area including the following:

- 4           1. Limit the time period to a certain number of calendar years during which the
- 5           area shall be so designated;
- 6           2. Limit the type of deduction that will be allowed within the Economic
- 7           Revitalization Area per the Indiana Code, as amended;
- 8           3. Limit the dollar amount of the deduction that will be allowed with respect to
- 9           new manufacturing equipment as such equipment is defined in IC 6-1.1-
- 10           12.1-1;
- 11           4. Limit the dollar amount of the deduction that will be allowed with respect to
- 12           redevelopment and rehabilitation, as defined in IC 6-1.1-12.1-1;
- 13           5. Impose reasonable conditions related to the purpose of IC 6-1.1-12.1 or to
- 14           any general standards adopted by resolution of the Fort Wayne Common
- 15           Council in finding an area to be an Economic Revitalization Area for
- 16           allowing the deduction for the redevelopment or rehabilitation of the
- 17           property or the installation of new manufacturing equipment, so long as
- 18           such conditions are included in the resolution passed per IC 6-1.1-12.1-2.5;
- 19           and

20           **WHEREAS**, property located in an allocation area (as defined in IC 36-7-14-39 or

21           IC 36-7-15.1-26) may not be approved for property tax deduction unless the

22           commission that designated the allocation area first adopts a resolution

23           approving the application per IC 6-1.1-12.1 (l) ; and

24           **WHEREAS**, a deduction for the redevelopment or rehabilitation of real property

25           may not be approved for the following facilities:

- 26           1. Private or commercial golf course.
- 27           2. Country club.
- 28           3. Massage parlor.
- 29           4. Tennis club.
- 30           5. Skating facility (including roller skating, skateboarding, or ice skating).
6. Racquet sport facility (including any handball or racquetball court)
7. Hot tub facility.
8. Suntan facility.
9. Racetrack.
10. Any facility the primary purpose of which is:
  - a. Retail food and beverage service;
  - b. Automobile sales or service; or
  - c. Other retail;

          unless the facility is located an economic development target area established

          under       Section 7 of IC 6-1.1-12.1.

11. A package liquor store that holds a liquor dealer's permit under IC 7.1-3-10
- or any other entity that is required to operate under a license issued under
- IC 7.1 unless said entity is as described in IC 7.1-5-7-11; and



1       **WHEREAS**, the Fort Wayne Common Council may impose a fee for filing a  
2       designation application for a person requesting the designation of a particular  
3       area as an Economic Revitalization Area sufficient to defray actual processing  
4       and administrative costs; and

5       **WHEREAS**, the City of Fort Wayne desires to consolidate and clarify policies,  
6       practices, and procedures for the designation of economic revitalization areas.

7       **NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF**  
8       **THE CITY OF FORT WAYNE, INDIANA**

9       **SECTION 1. THAT THE FORT WAYNE COMMON COUNCIL HEREBY**  
10      **REPEALS SECTION 153.02 IN ITS ENTIRETY AND ADDS THE**  
11      **FOLLOWING NEW SUBSECTION - 153.13-153.24 -ENTITLED**  
12      **"DESIGNATION OF ECONOMIC REVITALIZATION AREAS AND THE**  
13      **GRANTING OF TAX ABATEMENTS."**

14      **"DESIGNATION OF ECONOMIC REVITALIZATION AREAS AND THE**  
15      **GRANTING OF TAX ABATEMENTS."**

16      **§ 153.13 Delegation of Responsibility.**

17      The Fort Wayne Common Council designates the City of Fort Wayne Department of  
18      Economic Development as the entity for the administration and processing of  
19      applications for Economic Revitalization Areas. Those procedures deemed  
20      necessary for the orderly application, administration and monitoring of Economic  
21      Revitalization Areas shall be developed by the Director of the Department of  
22      Economic Development, submitted to the finance committee of the Fort Wayne  
23      Common Council, and approved by the Fort Wayne Common Council of the whole.  
24      Any ensuing changes to same administrative procedures shall be approved by  
25      similar action of the Council.

26      **§ 153.14 Application Fees.**

27      In order to defray costs incurred by the City of Fort Wayne in processing  
28      applications for designation of Economic Revitalization Areas the following shall  
29      apply:

- 30      A. Applicants shall pay a non-refundable filing fee of \$1,000.
- 31      B. Applicants for projects within a designated Economic Development Target Area  
32      shall pay a reduced non-refundable filing fee of \$100 as an added inducement to  
33      recapitalization by private investors in certain areas of the City of Fort Wayne.
- 34      C. Applicants for amendments to a Statement of Benefits Form to extend a non-  
35      expired designation period previously allowed shall pay a non-refundable filing  
36      fee of \$300.

1 D. Applicants for amendments to a Statement of Benefits Form for any other  
2 reason shall pay a non-refundable filing fee of \$500.

3 All filing fees shall be made payable to the "City of Fort Wayne" at the time the  
4 application is submitted to the City of Fort Wayne Department of Economic  
5 Development.

6 **§ 153.15 Ineligible projects.**

7 A. Fort Wayne Common Council shall not review applications for Economic  
8 Revitalization Area status for any of the project types noted below, nor shall  
9 the City of Fort Wayne Department of Economic Development accept such  
10 applications:

- 11 1. Massage parlor.
- 12 2. Hot tub facility.
- 13 3. Racetrack.
- 14 4. Tobacco store or facility where tobacco or tobacco products comprise the  
15 majority (greater than 50.0%) of sales.
- 16 5. Arcade facility or facility with primarily arcade games.
- 17 6. Sales, warehousing, distribution or servicing facility where guns or other  
18 types of weaponry and/or ammunition of any type comprise the majority  
19 (greater than 50.0%) of sales, whether or not used for purposes of sport.
- 20 7. Pawn shop.
- 21 ~~8. Restaurants.~~
- 22 9. Package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or  
23 any other entity required to operate under a license issued under IC 7.1 et.  
24 al

25 whether or not said project is located within an Economic Development Target  
26 Area.

27 It is the policy of the Fort Wayne Common Council that no application to amend a  
28 Statement of Benefits Form will be accepted after the expiration of the designation  
29 period stated in the Confirming Resolution granting Economic Revitalization Area  
30 Status.

**§ 153.16 Community Benefit Review**

In its deliberations regarding designation of an Economic Revitalization Area the  
Fort Wayne Common Council may, pursuant to IC 6-1.1-12.1-2(f), give  
consideration to the following general standards to determine if:

- A. The designation will encourage the use of vacant or under-utilized land  
designated as appropriate for industrial or commercial development, or which is  
currently zoned for industrial or commercial use, as appropriate.
- B. The proposed use of the real estate for which designation is being requested is  
consistent with the land use policies of the City of Fort Wayne.



- 1 C. The designation will encourage the improvement or replacement of a  
2 deteriorated or obsolete structure, deteriorated or obsolete manufacturing  
3 equipment, or result in significant conversion of solid waste or hazardous waste  
4 into energy or other useful products.
- 5 D. The designation will encourage the preservation of an historically or  
6 architecturally significant structure.
- 7 E. The designation will assist in the inducement of a project providing employment  
8 opportunities for Fort Wayne area residents.
- 9 F. The mean average wage of all full-time jobs projected to be created and/or  
10 retained is at least 150% of the then Federal minimum wage in effect at the  
11 time of application.
- 12 G. The designation will assist in the inducement of a project which will provide long-  
13 term benefits to the tax base of the City of Fort Wayne. **It is the policy of the**  
14 **Fort Wayne Common Council, therefore, that the Common Council shall**  
15 **denote in the appropriate space on the Statement of Benefits Form (State**  
16 **Form SB-1) as a precondition to the receipt of Economic Revitalization**  
17 **Area status the following text: "Subject to taxpayer's non-delinquent**  
18 **status on any and all property tax due to taxing jurisdictions within Allen**  
19 **County, Indiana". In subsequent filings by the taxpayer and/or applicant**  
20 **of Compliance With Statement of Benefits Forms (State Form CF-1),**  
21 **taxpayer/applicant must self-certify its non-delinquent status with all**  
22 **taxing jurisdictions within Allen County, Indiana.**

23 § 153.17 Review of Economic Revitalization Area Eligibility by Council.

- 24 A. After review of the information provided in the application, the Fort Wayne  
25 Common Council may find that the real estate under consideration meets the  
26 definition and standards of an Economic Revitalization Area as defined in IC 6-  
27 1.1-12.1-1(1) as amended. In such case the Fort Wayne Common Council shall  
28 pass a resolution declaring the area an Economic Revitalization Area. The  
29 declaring resolution must:
- 30 1. Contain a description of the affected area.
  - 1 Note whether the application is for real property improvements and/or  
2 personal property improvements.
  - 3 Be filed with the Allen County assessor.
  - 4 Include a determination of the period of deduction allowed per IC 6-1.1-12.1-  
5 3 (c).
- 6 B. After approval of a declaratory resolution, the Fort Wayne Common Council  
7 shall publish notice in accordance with IC 5-3-1, as amended. The notice must  
8 state that a description of the affected area is available and can be inspected in  
9 the county assessor's office. The notice must also name a date when the Fort



Wayne Common Council will hold a public hearing for the purpose of receiving and hearing any and all remonstrances and objections from interested persons. In addition, the Fort Wayne Common Council shall file this information, and a notice containing a Statement of Benefits Form (SB-1) with the officers of each affected taxing unit with authority to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5, at least ten days prior to the date of the public hearing.

C. In reviewing the evidence the Fort Wayne Common Council shall also review the Statement of Benefits Form. The Fort Wayne Common Council shall determine whether the area should be designated an Economic Revitalization Area and/or whether a deduction should be allowed for the project, based on (and after it has made) the following findings:

1. Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature, and whether the estimate of the cost of the new manufacturing equipment (if applicable) is reasonable for equipment of that type.
2. Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described project, or
3. If the designation is for new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.
4. Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected from the proposed described project.
5. Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described project.
6. Whether the totality of benefits is sufficient to justify the deduction.

D. It is the policy of the Fort Wayne Common Council to have the applicant or a designated representative of the applicant present at the public hearing of the Fort Wayne Common Council to answer any questions the Fort Wayne Common Council may have and to further clarify the project at that time.

E. After considering all evidence presented, the Fort Wayne Common Council shall take final action to determine whether the qualifications for an Economic Revitalization Area have been met and to confirm, modify and confirm, or rescind the declaratory resolution. Such action may include:

1. Adoption by confirmation of the declaratory resolution. Said confirming resolution shall include the reasons upon which the determination is made.
2. A finding that there is insufficient information and a deferral of action on the matter. The applicant shall be provided written notice of the reasons for deferral within ten days of that action.



1                   3. A determination that the real estate should not be designated as an  
2                   Economic Revitalization Area. The applicant shall be provided with written  
3                   notice thereof.

4                   F. Upon confirming, or modifying and confirming a declaratory resolution by the  
5                   procedures set forth herein, both the Allen County Auditor and the Fort Wayne  
6                   Common Council shall keep a permanent record of the designation of the  
7                   subject Economic Revitalization Area. Fort Wayne Common Council shall also  
8                   provide the Allen County Auditor with a final designation packet to be utilized in  
9                   the review of applications for deduction pursuant to IC 6-1.1-12.1-5 and IC 6-  
10                  1.1-12.1-5.5.

11                  **§ 153.18 Designation Periods**

12                  Designation periods for newly designated Economic Revitalization Areas shall  
13                  expire on December 31, 2005 unless otherwise specified by the Fort Wayne  
14                  Common Council in its confirming resolution.

15                  **§ 153.19 Deduction Periods for Real Property**

16                  In determining whether an applicant is entitled to a deduction for three years, six  
17                  years, or ten years for real property improvement projects, and in the absence of  
18                  any sufficient extenuating circumstances, the Fort Wayne Common Council shall  
19                  use the following guidelines:

- 20                  A. Applicants applying for manufacturing, warehousing, or distribution projects may  
21                  receive a ten-year abatement period if the land is located within the Urban  
22                  Enterprise Zone and/or is located on land already zoned industrial, unless such  
23                  applicant requests infrastructure improvements to the project site, in which case  
24                  the applicant may receive a reduced abatement period.
- 25                  B. Applicants applying for commercial and/or service projects may receive a six-  
26                  year abatement period if the real estate is located within the Urban Enterprise  
27                  Zone. If the real estate is located on land already zoned industrial, such  
28                  projects may receive a three-year abatement period.
- 29                  C. Applicants applying for projects within an Economic Improvement District may  
30                  receive a six-year abatement period.
- D. Projects within a designated Economic Development Target Area may receive a  
                  ten-year abatement period.
- E. Retail projects are eligible for tax abatement only if such projects are located  
                  within a designated Economic Development Target Area and are not defined as  
                  ineligible under Section 3 of this Chapter.
- F. If a real property improvement project is located within an allocation area as  
                  defined in IC 36-7-14-39, no abatement will be granted unless the Fort Wayne



Redevelopment Commission has first adopted a resolution consenting to the subject designation.

- G. If such consenting resolution has been adopted by the Fort Wayne Redevelopment Commission, the Fort Wayne Common Council will determine whether projected property tax revenues created by the project will exceed those costs which may be needed in order to induce the project. Should costs exceed projected property tax revenues created by the project over a three, six, or ten-year period, then Fort Wayne Common Council will consider said project accordingly.

#### **§ 153.20 Deduction Periods for Personal Property**

In determining whether an applicant is entitled to a deduction for new manufacturing equipment as defined in IC 6-1.1-12.1-1(3), the Fort Wayne Common Council may use the following guidelines:

- A. In the absence of extenuating circumstances, it is the policy of the Fort Wayne Common Council to allow tax abatements on personal property for a period of five years.
- B. If the new manufacturing machinery project is located within an allocation area as defined in IC 36-7-14-39, no abatement shall be granted unless the Fort Wayne Redevelopment Commission has first adopted a resolution consenting to the subject designation.
- C. If such consenting resolution has been adopted by the Fort Wayne Redevelopment Commission, the Fort Wayne Common Council will determine whether the projected property tax revenues created by the project will exceed those costs which may be needed in order to induce the project. Should the costs exceed the projected property tax revenues created by the project over a five-year period, then Fort Wayne Common Council will consider said project accordingly.

#### **§ 153.21 Compliance with Statement of Benefits**

- A. All deduction applications filed with the Allen County Auditor for projects designated by the Fort Wayne Common Council as Economic Revitalization Areas must include a correct and complete Compliance with Statement of Benefits Form (CF-1) as prescribed by the Indiana State Board of Tax Commissioners. The Compliance with Statement of Benefits Form must be filed with both the Allen County Auditor and with the City of Fort Wayne Department of Economic Development according to the filing schedule listed in IC 6-1.1-12.1-5.2 and IC 6-1.1-12.1-5.5, as applicable.
- B. Compliance with Statement of Benefits Forms filed by an applicant must show the extent to which there has been compliance with the Statement of Benefits Form (SB-1) approved by the Fort Wayne Common Council in designating the area an Economic Revitalization Area. The Compliance with Statement of



Benefits Form must be updated per IC 6-1.1-12.1 et. al . The Fort Wayne Common Council shall monitor for substantial compliance those projects it designates as Economic Revitalization Areas.

C. Substantial compliance has been defined by the Fort Wayne Common Council as:

1. Meeting 75% or more of the numbers of full-time and/or part-time jobs stated to be created or retained as delineated in the original Statement of Benefits Form (SB-1) approved by the Fort Wayne Common Council; and/or
2. Meeting 75% or more of the total payroll stated to be created or retained as delineated in the original Statement of Benefits Form (SB-1) approved by the Fort Wayne Common Council,

within the time frame projected in the applicant's original approved Statement of Benefits Form. Once substantial compliance has been reached, the Fort Wayne Common Council will no longer monitor for compliance.

D. Within 45 days after receipt of a properly filed Compliance with Statement of Benefits Form, Fort Wayne Common Council will determine whether the applicant has substantially complied with the Statement of Benefits Form and, if not, whether the failure to substantially comply was caused by factors beyond the control of the applicant.

E. Property owners that have not substantially complied with the terms of their original Statement of Benefits Form may have the remainder of their tax abatement rescinded by the Fort Wayne Common Council.

F. An applicant that has received a deduction for real property or personal property and:

1. Ceases operations at the facility for which the deduction was granted; and
2. Is found to have intentionally provided false information concerning plans to continue operations at the facility,

may be determined by Common Council to be subject to repayment to the Allen County Treasurer of those property taxes that were deducted per the formula given in IC 6-1.1-12.1-12 (e).

#### **§ 153.22 Amending Statements of Benefits**

A. Amendments to Statement of Benefits Forms are required if the designation period initially granted is insufficient to complete the project as stated in the initial Statement of Benefits Form; and/or if the project scope has changed significantly, resulting in a total project investment amount of more than 150% of that originally projected; and/or if the numbers of jobs to be created or retained by the project will decrease by more than 25% of that originally projected.



1 B. It is the policy of the Fort Wayne Common Council that no application from an  
2 applicant to amend a Statement of Benefits Form will be accepted after the  
3 expiration of the designation period stated in the Confirming Resolution granting  
4 Economic Revitalization Area status.

5 **§ 153.23 No Affect on Prior Designations**

6 All real estate previously designated by the Fort Wayne Common Council as  
7 Economic Revitalization Areas under the provisions of the Fort Wayne Common  
8 Council then in effect, shall remain in effect for the time periods proscribed in the  
9 respective confirming resolutions, unless said real estate receives approval by the  
10 Fort Wayne Common Council of an amended Statement of Benefits after the  
11 effective date of this Section, in which case the later City Code provisions shall  
12 apply.

13 **§ 153.24 Compliance with State and Federal Law**

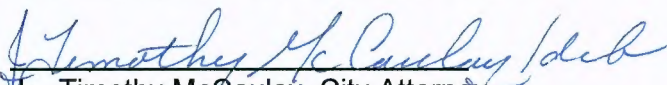
14 If any part of this policy and ordinance is found to be in noncompliance with any  
15 State of Indiana or Federal statute, then such noncompliant part shall be declared  
16 void without any effect on the validity of the remaining portions of this ordinance.  
17 Should the Indiana Code sections referenced in this ordinance be modified and/or  
18 recodified, then this ordinance shall be deemed to refer to the recodified sections of  
19 same.

20 **SECTION 2.** Section 153.03 "Designating residentially distressed areas" of the City  
21 of Fort Wayne Code of Ordinances will now be redesignated as Section 153.02.

22 **SECTION 3.** This Ordinance shall be in full force and effect from and after its  
23 passage and any and all necessary approval by the Mayor of the City of Fort  
24 Wayne.

25   
26 \_\_\_\_\_  
27 Council Member

28 APPROVED AS TO FORM AND LEGALITY

29   
30 \_\_\_\_\_  
31 U. Timothy McCaulay, City Attorney



Read the first time in full and on motion by Ravine,  
and duly adopted, read the second time by title and referred to the Committee on  
Regulations, (and the City Plan Commission for recommendation)  
and Public Hearing to be held after due legal notice, at the Common Council Conference  
Room 128, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_,  
the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ at \_\_\_\_\_  
o'clock \_\_\_\_\_ M., E.S.T.

DATED: 3-25-97

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Hayhurst,  
and duly adopted, placed on its passage. PASSED  
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>8</u>	<u>1</u>		
BENDER	<u>✓</u>			
CRAWFORD	<u>✓</u>			
EDMONDS	<u>✓</u>			
HALL	<u>✓</u>			
HAYHURST	<u>✓</u>			
HENRY		<u>✓</u>		
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			

DATED: 4-8-97

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana,  
as (ANNEXATION) \_\_\_\_\_ (APPROPRIATION) \_\_\_\_\_ (GENERAL) \_\_\_\_\_ (SPECIAL) \_\_\_\_\_

(ZONING) \_\_\_\_\_ ORDINANCE \_\_\_\_\_ RESOLUTION NO. 9-05-97  
on the 8th day of April, 1997

Sandra E. Kennedy ATTEST SEAL Thomas P. Henry  
SANDRA E. KENNEDY, CITY CLERK PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the  
9th day of April, 1997,  
at the hour of 11:00, o'clock AM, M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 11th day  
of April, 1997, at the hour of 7:30  
o'clock A M., E.S.T.

Paul Helmke  
PAUL HELMKE, MAYOR



AN ORDINANCE REPEALING SECTION 153.02 OF  
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**WHEREAS**, tax abatement is an inducement, allowing prospective and existing Fort Wayne companies investing in real property improvements or new manufacturing machinery within the City, to phase-in the payment of those additional taxes resulting from their investment; and

**WHEREAS**, the designation of certain parcels of land as Economic Revitalization Areas is a step taken preliminary to a private entity's filing for tax abatement; and

**WHEREAS**, the Fort Wayne Common Council further recognizes that it would be beneficial to designate certain areas within the City of Fort Wayne as Economic Revitalization Areas for tax abatement purposes; and

**WHEREAS**, the Fort Wayne Common Council is such a designating body per the Indiana Code; and

**WHEREAS**, according to Indiana Code 6-1.1-12.1(1), as amended "Economic revitalization area" means an area which is within the corporate limits of a city, town, or county which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property. The term "economic revitalization area" also includes:

(A) any area where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues; and

(B) a residentially distressed area, except as otherwise provided in this chapter." ; and,



**WHEREAS,** The Fort Wayne Common Council may, according to IC 6-1.1-12.1-2(i), include certain conditions in the resolution designating an area as an Economic Revitalization Area including the following:

1. Limit the time period to a certain number of calendar years during which the area shall be so designated;
2. Limit the type of deduction that will be allowed within the Economic Revitalization Area per the Indiana Code, as amended;
3. Limit the dollar amount of the deduction that will be allowed with respect to new manufacturing equipment as such equipment is defined in IC 6-1.1-12.1-1;
4. Limit the dollar amount of the deduction that will be allowed with respect to redevelopment and rehabilitation, as defined in IC 6-1.1-12.1-1;
5. Impose reasonable conditions related to the purpose of IC 6-1.1-12.1 or to any general standards adopted by resolution of the Fort Wayne Common Council in finding an area to be an Economic Revitalization Area for allowing the deduction for the redevelopment or rehabilitation of the property or the installation of new manufacturing equipment, so long as such conditions are included in the resolution passed per IC 6-1.1-12.1-2.5; and

**WHEREAS**, property located in an allocation area (as defined in IC 36-7-14-39 or IC 36-7-15.1-26) may not be approved for property tax deduction unless the commission that designated the allocation area first adopts a resolution approving the application per IC 6-1.1-12.1 (l) ; and

**WHEREAS**, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities:

1. Private or commercial golf course.
2. Country club.
3. Massage parlor.
4. Tennis club.
5. Skating facility (including roller skating, skateboarding, or ice skating).
6. Racquet sport facility (including any handball or racquetball court)
7. Hot tub facility.
8. Suntan facility.
9. Racetrack.
10. Any facility the primary purpose of which is:
  - a. Retail food and beverage service;
  - b. Automobile sales or service; or
  - c. Other retail;

unless the facility is located an economic development target area established under Section 7 of IC 6-1.1-12.1.

11. A package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or any other entity that is required to operate under a license issued under IC 7.1 unless said entity is as described in IC 7.1-5-7-11; and

1       **WHEREAS**, the Fort Wayne Common Council may impose a fee for filing a  
2       designation application for a person requesting the designation of a particular  
3       area as an Economic Revitalization Area sufficient to defray actual processing  
4       and administrative costs; and

5       **WHEREAS**, the City of Fort Wayne desires to consolidate and clarify policies,  
6       practices, and procedures for the designation of economic revitalization areas.

7       **NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF**  
8       **THE CITY OF FORT WAYNE, INDIANA**

9       **SECTION 1. THAT THE FORT WAYNE COMMON COUNCIL HEREBY**  
10      **REPEALS SECTION 153.02 IN ITS ENTIRETY AND ADDS THE**  
11      **FOLLOWING NEW SUBSECTION - 153.13-153.24 - SUBTITLED**  
12      **"DESIGNATION OF ECONOMIC REVITALIZATION AREAS AND THE**  
13      **GRANTING OF TAX ABATEMENTS."**

14               **"DESIGNATION OF ECONOMIC REVITALIZATION AREAS AND THE**  
15               **GRANTING OF TAX ABATEMENTS."**

16       **§ 153.13 Delegation of Responsibility.**

17       The Fort Wayne Common Council designates the City of Fort Wayne Department of  
18       Economic Development as the entity for the administration and processing of  
19       applications for Economic Revitalization Areas. Those procedures deemed  
20       necessary for the orderly application, administration and monitoring of Economic  
21       Revitalization Areas shall be developed by the Director of the Department of  
22       Economic Development, submitted to the finance committee of the Fort Wayne  
23       Common Council, and approved by the Fort Wayne Common Council of the whole.  
24       Any ensuing changes to same administrative procedures shall be approved by  
25       similar action of the Council.

26       **§ 153.14 Application Fees.**

27       In order to defray costs incurred by the City of Fort Wayne in processing  
28       applications for designation of Economic Revitalization Areas the following shall  
29       apply:

- 30       A. Applicants shall pay a non-refundable filing fee of \$1,000.
- B. Applicants for projects within a designated Economic Development Target Area  
      shall pay a reduced non-refundable filing fee of \$100 as an added inducement to  
      recapitalization by private investors in certain areas of the City of Fort Wayne.
- C. Applicants for amendments to a Statement of Benefits Form to extend a non-  
      expired designation period previously allowed shall pay a non-refundable filing  
      fee of \$300.



1 D. Applicants for amendments to a Statement of Benefits Form for any other  
2 reason shall pay a non-refundable filing fee of \$500.

3 All filing fees shall be made payable to the "City of Fort Wayne" at the time the  
4 application is submitted to the City of Fort Wayne Department of Economic  
5 Development.

6 **§ 153.15 Ineligible projects.**

7 A. Fort Wayne Common Council shall not review applications for Economic  
8 Revitalization Area status for any of the project types noted below, nor shall  
9 the City of Fort Wayne Department of Economic Development accept such  
10 applications:

- 11 1. Massage parlor.
- 12 2. Hot tub facility.
- 13 3. Racetrack.
- 14 4. Tobacco store or facility where tobacco or tobacco products comprise the  
15 majority (greater than 50.0%) of sales.
- 16 5. Arcade facility or facility with arcade games.
- 17 6. Sales, warehousing, distribution or servicing facility where guns or other  
18 types of weaponry and/or ammunition of any type comprise the majority  
19 (greater than 50.0%) of sales, whether or not used for purposes of sport.
- 20 7. Pawn shop.
- 21 8. Restaurants.
- 22 9. Package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or  
23 any other entity required to operate under a license issued under IC 7.1 et.  
24 al

25 whether or not said project is located within an Economic Development Target  
26 Area.

27 B. It is the policy of the Fort Wayne Common Council that no application to amend  
28 a Statement of Benefits Form will be accepted after the expiration of the  
29 designation period stated in the Confirming Resolution granting Economic  
30 Revitalization Area Status.

**§ 153.16 Community Benefit Review**

In its deliberations regarding designation of an Economic Revitalization Area the  
Fort Wayne Common Council may, pursuant to IC 6-1.1-12.1-2(f), give  
consideration to the following general standards to determine if:

- A. The designation will encourage the use of vacant or under-utilized land  
designated as appropriate for industrial or commercial development, or which is  
currently zoned for industrial or commercial use, as appropriate.
- B. The proposed use of the real estate for which designation is being requested is  
consistent with the land use policies of the City of Fort Wayne.

- 1 C. The designation will encourage the improvement or replacement of a  
2 deteriorated or obsolete structure, deteriorated or obsolete manufacturing  
3 equipment, or result in significant conversion of solid waste or hazardous waste  
4 into energy or other useful products.
- 5 D. The designation will encourage the preservation of an historically or  
6 architecturally significant structure.
- 7 E. The designation will assist in the inducement of a project providing employment  
8 opportunities for Fort Wayne area residents.
- 9 F. The mean average wage of all full-time jobs projected to be created and/or  
10 retained is at least 150% of the then Federal minimum wage in effect at the  
11 time of application.
- 12 G. The designation will assist in the inducement of a project which will provide long-  
13 term benefits to the tax base of the City of Fort Wayne.

14 **§ 153.17 Review of Economic Revitalization Area Eligibility by Council.**

- 15 A. After review of the information provided in the application, the Fort Wayne  
16 Common Council may find that the real estate under consideration meets the  
17 definition and standards of an Economic Revitalization Area as defined in IC 6-  
18 1.1-12.1-1(1) as amended. In such case the Fort Wayne Common Council shall  
19 pass a resolution declaring the area an Economic Revitalization Area. The  
20 declaring resolution must:
- 21 1. Contain a description of the affected area.
  - 22 2. Note whether the application is for real property improvements and/or  
23 personal property improvements.
  - 24 3. Be filed with the Allen County assessor.
  - 25 4. Include a determination of the period of deduction allowed per IC 6-1.1-12.1-  
26 3 (c).
- 27 B. After approval of a declaratory resolution, the Fort Wayne Common Council  
28 shall publish notice in accordance with IC 5-3-1, as amended. The notice must  
29 state that a description of the affected area is available and can be inspected in  
30 the county assessor's office. The notice must also name a date when the Fort  
Wayne Common Council will hold a public hearing for the purpose of receiving  
and hearing any and all remonstrances and objections from interested persons.  
In addition, the Fort Wayne Common Council shall file this information, and a  
notice containing a Statement of Benefits Form (SB-1) with the officers of each  
affected taxing unit with authority to fix budgets, tax rates, and tax levies under  
IC 6-1.1-17-5, at least ten days prior to the date of the public hearing.
- 31 C. In reviewing the evidence the Fort Wayne Common Council shall also review the  
Statement of Benefits Form. The Fort Wayne Common Council shall determine  
whether the area should be designated an Economic Revitalization Area and/or



whether a deduction should be allowed for the project, based on (and after it has made) the following findings:

1. Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature, and whether the estimate of the cost of the new manufacturing equipment (if applicable) is reasonable for equipment of that type.
  2. Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described project, or
  3. If the designation is for new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.
  4. Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected from the proposed described project.
  5. Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described project.
  6. Whether the totality of benefits is sufficient to justify the deduction.
- D. It is the policy of the Fort Wayne Common Council to have the applicant or a designated representative of the applicant present at the public hearing of the Fort Wayne Common Council to answer any questions the Fort Wayne Common Council may have and to further clarify the project at that time.
- E. After considering all evidence presented, the Fort Wayne Common Council shall take final action to determine whether the qualifications for an Economic Revitalization Area have been met and to confirm, modify and confirm, or rescind the declaratory resolution. Such action may include:
1. Adoption by confirmation of the declaratory resolution. Said confirming resolution shall include the reasons upon which the determination is made.
  2. A finding that there is insufficient information and a deferral of action on the matter. The applicant shall be provided written notice of the reasons for deferral within ten days of that action.
  3. A determination that the real estate should not be designated as an Economic Revitalization Area. The applicant shall be provided with written notice thereof.
- F. Upon confirming, or modifying and confirming a declaratory resolution by the procedures set forth herein, both the Allen County Auditor and the Fort Wayne Common Council shall keep a permanent record of the designation of the subject Economic Revitalization Area. Fort Wayne Common Council shall also provide the Allen County Auditor with a final designation packet to be utilized in

the review of applications for deduction pursuant to IC 6-1.1-12.1-5 and IC 6-1.1-12.1-5.5.

#### **§ 153.18 Designation Periods**

Designation periods for newly designated Economic Revitalization Areas shall expire on December 31, 2005 unless otherwise specified by the Fort Wayne Common Council in its confirming resolution.

#### **§ 153.19 Deduction Periods for Real Property**

In determining whether an applicant is entitled to a deduction for three years, six years, or ten years for real property improvement projects, and in the absence of any sufficient extenuating circumstances, the Fort Wayne Common Council shall use the following guidelines:

- A. Applicants applying for manufacturing, warehousing, or distribution projects may receive a ten-year abatement period if the land is located within the Urban Enterprise Zone and/or is located on land already zoned industrial, unless such applicant requests infrastructure improvements to the project site, in which case the applicant may receive a reduced abatement period.
- B. Applicants applying for commercial and/or service projects may receive a six-year abatement period if the real estate is located within the Urban Enterprise Zone. If the real estate is located on land already zoned industrial, such projects may receive a three-year abatement period.
- C. Applicants applying for projects within an Economic Improvement District may receive a six-year abatement period.
- D. Projects within a designated Economic Development Target Area may receive a ten-year abatement period.
- E. Retail projects are eligible for tax abatement only if such projects are located within a designated Economic Development Target Area and are not defined as ineligible under Section 3 of this Chapter.
- F. If a real property improvement project is located within an allocation area as defined in IC 36-7-14-39, no abatement will be granted unless the Fort Wayne Redevelopment Commission has first adopted a resolution consenting to the subject designation.
- G. If such consenting resolution has been adopted by the Fort Wayne Redevelopment Commission, the Fort Wayne Common Council will determine whether projected property tax revenues created by the project will exceed those costs which may be needed in order to induce the project. Should costs exceed projected property tax revenues created by the project over a three, six, or ten-year period, then Fort Wayne Common Council will consider said project accordingly.



1                   **§ 153.20 Deduction Periods for Personal Property**

2                   In determining whether an applicant is entitled to a deduction for new manufacturing  
3                   equipment as defined in IC 6-1.1-12.1-1(3), the Fort Wayne Common Council may  
4                   use the following guidelines:

- 5                   A. In the absence of extenuating circumstances, it is the policy of the Fort Wayne  
6                   Common Council to allow tax abatements on personal property for a period of  
7                   five years.
- 8                   B. If the new manufacturing machinery project is located within an allocation area  
9                   as defined in IC 36-7-14-39, no abatement shall be granted unless the Fort  
10                  Wayne Redevelopment Commission has first adopted a resolution consenting to  
11                  the subject designation.
- 12                C. If such consenting resolution has been adopted by the Fort Wayne  
13                  Redevelopment Commission, the Fort Wayne Common Council will determine  
14                  whether the projected property tax revenues created by the project will exceed  
15                  those costs which may be needed in order to induce the project. Should the  
16                  costs exceed the projected property tax revenues created by the project over a  
17                  five-year period, then Fort Wayne Common Council will consider said project  
18                  accordingly.

19                   **§ 153.21 Compliance with Statement of Benefits**

- 20                A. All deduction applications filed with the Allen County Auditor for projects  
21                  designated by the Fort Wayne Common Council as Economic Revitalization  
22                  Areas must include a correct and complete Compliance with Statement of  
23                  Benefits Form (CF-1) as prescribed by the Indiana State Board of Tax  
24                  Commissioners. The Compliance with Statement of Benefits Form must be filed  
25                  with both the Allen County Auditor and with the City of Fort Wayne Department  
26                  of Economic Development according to the filing schedule listed in IC 6-1.1-  
27                  12.1-5.2 and IC 6-1.1-12.1-5.5, as applicable.
- 28                B. Compliance with Statement of Benefits Forms filed by an applicant must show  
29                  the extent to which there has been compliance with the Statement of Benefits  
30                  Form (SB-1) approved by the Fort Wayne Common Council in designating the  
                  area an Economic Revitalization Area. The Compliance with Statement of  
                  Benefits Form must be updated per IC 6-1.1-12.1 et. al . The Fort Wayne  
                  Common Council shall monitor for substantial compliance those projects it  
                  designates as Economic Revitalization Areas.
- C. Substantial compliance has been defined by the Fort Wayne Common Council  
                  as:
1. Meeting 75% or more of the numbers of full-time and/or part-time jobs  
                  stated to be created or retained as delineated in the original Statement of  
                  Benefits Form (SB-1) approved by the Fort Wayne Common Council; and/or

1                   2. Meeting 75% or more of the total payroll stated to be created or retained as  
2                   delineated in the original Statement of Benefits Form (SB-1) approved by  
3                   the Fort Wayne Common Council,

4                   within the time frame projected in the applicant's original approved Statement of  
5                   Benefits Form. Once substantial compliance has been reached, the Fort Wayne  
6                   Common Council will no longer monitor for compliance.

7                   D. Within 45 days after receipt of a properly filed Compliance with Statement of  
8                   Benefits Form, Fort Wayne Common Council will determine whether the  
9                   applicant has substantially complied with the Statement of Benefits Form and, if  
10                  not, whether the failure to substantially comply was caused by factors beyond  
11                  the control of the applicant.

12                E. Property owners that have not substantially complied with the terms of their  
13                original Statement of Benefits Form may have the remainder of their tax  
14                abatement rescinded by the Fort Wayne Common Council.

15                F. An applicant that has received a deduction for real property or personal property  
16                and:

- 17                   1. Ceases operations at the facility for which the deduction was granted; and  
18                   2. Is found to have intentionally provided false information concerning plans to  
19                   continue operations at the facility,

20                   may be determined by Common Council to be subject to repayment to the Allen  
21                   County Treasurer of those property taxes that were deducted per the formula  
22                   given in IC 6-1.1-12.1-12 (e).

#### 23                   **§ 153.22 Amending Statements of Benefits**

24                A. Amendments to Statement of Benefits Forms are required if the designation  
25                period initially granted is insufficient to complete the project as stated in the  
26                initial Statement of Benefits Form; and/or if the project scope has changed  
27                significantly, resulting in a total project investment amount of more than 150% of  
28                that originally projected; and/or if the numbers of jobs to be created or retained  
29                by the project will decrease by more than 25% of that originally projected.

30                B. It is the policy of the Fort Wayne Common Council that no application from an  
                  applicant to amend a Statement of Benefits Form will be accepted after the  
                  expiration of the designation period stated in the Confirming Resolution granting  
                  Economic Revitalization Area status.

#### **§ 153.23 No Affect on Prior Designations**

                  All real estate previously designated by the Fort Wayne Common Council as  
                  Economic Revitalization Areas under the provisions of the Fort Wayne Common  
                  Council then in effect, shall remain in effect for the time periods proscribed in the  
                  respective confirming resolutions, unless said real estate receives approval by the



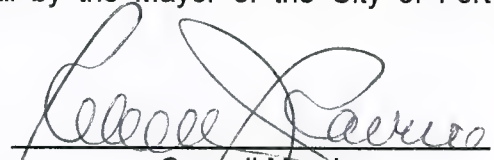
Fort Wayne Common Council of an amended Statement of Benefits after the effective date of this Section, in which case the later City Code provisions shall apply.

**§ 153.24 Compliance with State and Federal Law**

If any part of this policy and ordinance is found to be in noncompliance with any State of Indiana or Federal statute, then such noncompliant part shall be declared void without any effect on the validity of the remaining portions of this ordinance. Should the Indiana Code sections referenced in this ordinance be modified and/or recodified, then this ordinance shall be deemed to refer to the recodified sections of same.

**SECTION 2.** Section 153.03 "Designating residentially distressed areas" of the City of Fort Wayne Code of Ordinances will now be redesignated as Section 153.02.

**SECTION 3.** This Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor of the City of Fort Wayne.

  
Council Member

APPROVED AS TO FORM AND LEGALITY

  
J. Timothy McCaulay, City Attorney

**CITY OF FORT WAYNE, INDIANA**  
**ADMINISTRATIVE PROCEDURES**  
**FOR**  
**ECONOMIC REVITALIZATION AREA DESIGNATION**

- A. The City of Fort Wayne Department of Economic Development may undertake the following actions under the direction of the Director of the Department:
1. Develop and implement procedures to address changes in state legislation.
  2. Provide the Fort Wayne Common Council with supporting data necessary to properly consider requests for designation as an Economic Revitalization Area.
  3. Keep permanent records of all properly filed applications and duly designated Economic Revitalization areas.
  4. Act on behalf of the Fort Wayne Common Council in corresponding with applicants and other interested persons regarding the status of an application for designation.
  5. Annually evaluate and compare applicants' original (or amended) Statement of Benefits Form (SB-1) with their Compliance with Statement of Benefits Form (CF-1) to determine whether companies are in substantial compliance as defined by Fort Wayne Common Council. If companies are found not to be in substantial compliance, notify Fort Wayne Common Council of same.
- B. Economic Revitalization Area designation shall be initiated by the applicant. The applicant shall submit its petition to the Department of Economic Development (Room 840, City-County Building, Fort Wayne, Indiana 46802) on the most current forms provided by the Department to the applicant. No other application forms will be accepted.
- C. The application must be correctly completed in its entirety and shall be accompanied by all such attachments as may be requested within the application and such additional information as may be requested by Staff. At a minimum the attachments shall include:
1. A full legal description of said real estate.
  2. A plat map identifying the property boundaries of the land to be designated in relationship to all other contiguous properties.
  3. The common address of the subject real estate.
  4. A completed Statement of Benefits Form (Indiana Form SB-1).
  5. If the applicant is not the owner of the real estate to be designated, a notarized statement signed by the owner of the subject real estate stating that the owner has full knowledge of the applicant's intent to apply for Economic Revitalization Area status and has no objection to the application. (Owner's Certificate).
  6. A check made payable to "City of Fort Wayne" in the amount established in Chapter 153.02, *Section 3* of the Code of the City of Fort Wayne. The fee is non-refundable.
- D. The Application and Statement of Benefits Form (SB-1) must be signed by the owner of record of the real estate or the business occupying the real estate for which designation is being requested, or by an authorized representative of the same.



- E. Upon receipt of a correctly completed application form, all required attachments, and the proper fee, the City of Fort Wayne Department of Economic Development will note the date of filing on the face of the application with a date-stamp and an authorized staff member's initials, as designated by the Director of the Department of Economic Development.
- F. The Economic Development Department staff shall determine whether any of the following have occurred:
1. An application for an Improvement Location Permit has been filed with the Fort Wayne Planning Department for the real estate for which designation as an Economic Revitalization Area is being sought.
  2. An application for a structural permit has been filed with the Allen County Building Department for the real estate for which designation as an Economic Revitalization Area is being sought.
  3. New manufacturing equipment, as defined in IC 6-1.1-12.1-3 as amended, has been purchased and/or installed.
- G. If any of the items noted in section F, above, have been determined to have occurred prior to the receipt of the correctly completed application by the City of Fort Wayne Department of Economic Development staff, then such application shall not be processed further by the City nor will the staff forward such applications to the Fort Wayne Common Council for action.
- H. If none of the items noted in section F, above, have been determined to have occurred prior to the receipt of the correctly completed application, the City of Fort Wayne Department of Economic Development staff shall:
1. Review said application for community benefit as defined in Section 153.02 of the Code of the City of Fort Wayne.
  2. Refer a copy of said application to the Planning Department to assure that the proposed project meets with all applicable zoning regulations.
  3. If said application is found to be in the best interests of the City, the Department of Economic Development shall recommend passage of a Declaring and Confirming Resolution to the finance committee of the Fort Wayne Common Council. The Department's recommendation shall include the number of years of deduction recommended.
- I. The application, its attachments and a Declaring Resolution shall be forwarded to the Office of the City Clerk via the Law Department after preparation of a Declaring Resolution, a Confirming Resolution, and council digest sheet by the Department of Economic Development.
1. The Law Department shall review all documents for compliance with all applicable laws and refer said documents to the Office of the City Clerk. The petition shall constitute a communication under § 32.32(A)(5)(f).
  2. The Office of the City Clerk shall prepare legal notice of public hearing for the Declaring Resolution in accordance with IC 5-3-1 and shall include the Declaring Resolution in the new business portion of the next regular meeting of the finance committee of the Common Council.

3. Upon receipt of the written recommendation from the Department of Economic Development, action by the Committee of Finance, receipt of a resolution from the Redevelopment Commission if necessary, and after the public hearing, the Common Council shall take final action on the Declaring Resolution by either confirming, modifying and confirming, or rescinding said resolution.
4. Upon passage of the Confirming Resolution, the Office of the City Clerk shall prepare and provide the Allen County Auditor with final designation packets which shall include information necessary for the review of applications for deductions pursuant to IC 6-1.1-12.1-5 and IC 6-1.1-12.1-5.5.
5. Upon receipt of approved, signed copies of the Confirming Resolution, the Department of Economic Development shall forward same to the applicant.

Prepared by:

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Elizabeth A. Neu, C.E.D.  
Director  
DEPARTMENT OF ECONOMIC DEVELOPMENT

Approved this \_\_\_\_\_ day of 1997:

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Thomas C. Henry  
President  
Fort Wayne Common Council

EAN/tg



Admn. Appr. \_\_\_\_\_

## **DIGEST SHEET**

**TITLE OF ORDINANCE** General Ordinance Repealing Section 153.02 of the Municipal Code and Establishing a new Section 153.13<sup>-153.24</sup> of the Municipal Code.

**DEPARTMENT REQUESTING ORDINANCE** Department of Economic Development

**SYNOPSIS OF ORDINANCE** Ordinance would repeal the current Section 153.02 of the Municipal Code, replacing it with a new Section 153.13<sup>-153.24</sup>. New ordinance would consolidate and clarify policies, practices, and procedures for the designation of Economic Revitalization Areas. No current written policy exists.

**EFFECT OF PASSAGE** Will provide a legal basis for the granting or denial of Economic Revitalization Area status, a step taken prior to application for Tax Abatement.

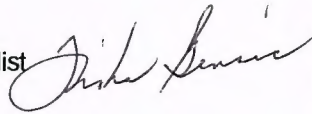
**EFFECT OF NON-PASSAGE** Potential for legal ramifications in the designation of Economic Revitalization Areas and further degradation of certain Redevelopment tax allocation areas.

**DIRECT COSTS, (EXPENDITURES, SAVINGS)** No direct City expenditures. Filing fees would be raised to \$1,000. For applicants located within an Economic Development Target Area, fees would be reduced to \$100 to encourage recapitalization.

**COMMITTEE CHAIR** Councilman John A. Crawford - Finance

# Memo

**To:** Fort Wayne Common Council  
**From:** Trisha Gensic, Sr. Economic Development Specialist  
**Date:** March 12, 1997  
**Re:** New Tax Abatement Policy and Procedures



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**WHAT:** Written Policies and Procedures on Tax Abatement

**WHY:** No Written Policy Currently Exists

**BENEFIT:** Will Provide a Legal Basis Within the Municipal Code for the Granting of or Denial of Economic Revitalizations Areas.

**DISBENEFIT:** May cause slight controversy.

**TIMING:** This Policy is Needed As Soon as Possible in Order to Halt Further Degradation of Allocation Area Revenues Needed for Infrastructure Development, Particularly in the Baer Field Industrial Park Area.

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## Background:

The Department of Economic Development has been operating the tax abatement program (Economic Revitalization Area Designation) for many years under a "word-of-mouth" policy, passed on from one administrative head, and supervisor to the next. In researching the Municipal Code as well as the records of the Fort Wayne Common Council no written documentation was found with reference to any policies of the Common Council as they relate to designating Economic Revitalization Areas with the exception of those on Economic Development Target Areas.

Recently our office was asked to approve Economic Revitalization Area status for two projects within the new Baer Field Industrial Park allocation area. This area is the subject of an Interlocal Cooperation Agreement signed by the Department of Redevelopment, Allen County and the City of Fort Wayne to provide infrastructure to the area funded by revenues from tax incremental financing. These tax abatement requests strike against the fundamental purpose of the TIF bonding.



It is the purpose of the Department, in seeking these changes to the Municipal Code, to help staff in determining those projects that should move forward based on a solid policy formally adopted by the Fort Wayne Common Council and in concurrence with their wishes.

In most cases, the attached policy merely puts into written form those "informal" policies and procedures that the Department staff has been using for a number of years. Recent legislative changes, as well as some suggested policy changes have been inserted for Council consideration as well. Other areas of change include:

1. A written policy repealing Section 153.0~~2~~ of the Code and replacing it with a new Section 153.12, accompanied by an "administrative procedures" document which would require Council approval prior to any modifications. 12-153.24
2. Designation of the Department of Economic Development as the administrative agent.
3. Consistent filing fees based on administrative cost rather than on project amount (which may be illegal).
4. Reduced filing fees for projects in targeted areas to encourage recapitalization.
5. Exclusion of undesirable types of business ventures for consideration of tax abatement (ERA status) whether or not allowed by state law. These business types were eliminated in consultation with the Fort Wayne Police Department and the Fort Wayne Economic Development Commission, with the feeling that these types of business activities should not be subsidized by the City. (See Section 3)
6. The addition of a community benefit review prior to designation which includes a wage qualifier for projects. (See Section 5)
7. An automatic designation expiration period of December 31, 2005.
8. Consistent abatement period of Economic Improvement District projects of 6 years.
9. Consistent abatement period of Economic Development Target Area projects of 10 years. (Coupled with the lower filing fees, and additional marketing of the program, this should help to stimulate recapitalization of smaller projects in EDTA areas - ones not cost-effective earlier.)
10. Redefining "substantial compliance" as 75% or more of the jobs projected OR the salaries projected. (This will help to rectify situations with major equipment recapitalization causing some reduction in production jobs, while total payroll and average wage has been rising substantially due to new, higher technology jobs.)
11. A requirement for an amended Statement of Benefits filing for projects that have substantially changed (as defined).

BILL NO. G-97-03-17 *As Amended - As Amended*

REPORT OF THE COMMITTEE ON REGULATIONS

THOMAS E. HAYHURST - REBECCA J. RAVINE - CO-CHAIR  
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON REGULATIONS TO  
WHOM WAS REFERRED AN (ORDINANCE) ~~(RESOLUTION)~~ repealing Section  
153.02 of the City of Fort Wayne, Indiana, Code of Ordinances and  
establishing new a New Subsection 153.13-153.24 - Entitled "Designation  
of Economic Revitalization Areas and the Granting of Tax Abatements"

HAVE HAD SAID (ORDINANCE) ~~(RESOLUTION)~~ UNDER CONSIDERATION  
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID  
(ORDINANCE) ~~(RESOLUTION)~~

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>
			<i>Thomas E. Hayhurst</i>
			<i>Walter A. B. C.</i>
			<i>D. Schmitt</i>
			<i>Debra Hall</i>
			<i>Wm. A. Crumley</i>
			<i>Rebecca J. Ravine</i>
<i>Thomas E. Hayhurst</i>			

DATED: *4-8-97.*

Sandra E. Kennedy  
City Clerk